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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,268	02/13/2004	Thomas M. Johnson	JOH005-239	5430
173 WHIRI POOL	7590 09/26/200 PATENTS COMPANS	EXAMINER		
WHIRLPOOL PATENTS COMPANY - MD 0750 500 RENAISSANCE DRIVE - SUITE 102			STINSON, FRANKIE L	
ST. JOSEPH, MI 49085			ART UNIT	PAPER NUMBER
			1746	
			MAIL DATE	DELIVERY MODE
			09/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1) Responsive to communication(s) filed on 09 August 2007. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-8 and 10-20 is/are pending in the application. 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration. 5) Claim(s) 1-7 is/are allowed. 6) Claim(s) 8 and 9-14 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).			Application No.	Applicant(s)			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Betarisons of time may be available under the provisions of 37 CPR 1.1366, in no event, 1936, in the overt, 1936 by the limby flied after 3X (6) MONTHS from the nailing date of this communication. Fallules to reply within the salt or extended period for reply will, by status, cause this application to become ABANDOLED, to st. SC. 3 (1.3); Any reply received by the Office late than these months after the mailing date of this communication. Fallules to reply within the salt or extended period for reply will, by status, cause this application to become ABANDOLED, to st. SC. 3 (1.3); Any reply received by the Office late than three months after the mailing date of this communication, even if timely filled, may reduce any seared parties them digustriant. Set 7 CFR 1.704(b). This action is provided by the Office late than three months after the mailing date of this communication, even if timely filled, may reduce any seared parties them digustriant them doubt any reduce any seared parties. Application is FINAL. 2b) Any reply received by the Office late than three months after the mailing date of this communication, even if timely filled, may reduce any seared parties and them after the mailing date of this communication. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-8 and 10-20 is/are pending in the application. 4) Claim(s) 1-8 and 10-20 is/are pending in the application. 4) Claim(s) 1-8 and 10-20 is/are pending in the application. 5) Claim(s) 1-8 and 10-20 is/are pending in the application requirement. Application Papers 9) The drawing(s) filed o	Office Action Summary		10/777,268	JOHNSON			
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application from the International Bureau (PCT Rule 17.2(a)).	2. Certified copies of the priority documents have been received in Application No						
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* See the attached detailed Office action for a list of the position and in a set of the section of							
* See the attached detailed Office action for a list of the certified copies not received.							
Attachment(s)	Attachment(s)	•	·				
Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)							
Paper No(s)/Mail Date Notice of Draftsperson's Patent Drawing Review (PTO-948)							
Paper No(s)/Mail Date 6) Other:							

Art Unit: 1746

- 1. The indicated allowability of claims 9-13 is withdrawn in view of the newly discovered reference(s) to Tuller et al. Rejections based on the newly cited reference(s) follow.
- 2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 8, 10-12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tuller et al. (U. S. Pat. No. 6,234,184).

Re claim 8, for example, Tuller is cited disclosing in a dishwasher including a tub having bottom, opposing side, rear and top walls which collectively define a washing chamber adapted to receive and cleanse soiled kitchenware by spraying washing fluid onto the kitchenware from at least one wash arm, a pump and filtration assembly comprising:

a housing mounted at an opening provided in the bottom wall of the tub, said housing including an intake chamber and a pumping chamber;

a filter chamber (50) adapted to receive a portion of the washing fluid entering the pumping chamber, said filter chamber including at least one enlarged opening provided with a fine mesh filtering screen(54) for entrapping soil from the washing fluid in the filter chamber while permitting cleansed washing fluid to be directed back into the washing chamber; and

means for relieving filter chamber pressure when the fine mesh filtering screen becomes clogged, said filter chamber pressure relieving means including a pressure

Application/Control Number: 10/777,268

Art Unit: 1746

relief valve (88) positioned to seal a pressure relief port (as at 72) open to the filter chamber for permitting washing fluid to flow from the filter chamber, past the pressure relief system and into the washing chamber.

Page 3

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuller et al.

Claims 13 and 14 define over Tuller only in the recitation of the flapper valve, nonetheless, the same is deemed to be an obvious matter of design in that the flapper valve is deemed to be merely the functional equivalent of the ball valve (see MPEP 2144.06 SUBSTITUTING EQUIVALENTS KNOWN FOR THE SAME PURPOSE). The claims would have been obvious because the technique for improving a particular class of a device was part of the ordinary capabilities of a person of ordinary skill in the art, in view of the teaching of the technique for improving other situations.

- 6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In Hegeman et al, note the pressure relief tube.
- 7. Applicant's arguments with respect to the pending claims have been considered but are most in view of the new ground(s) of rejection.

^{8.} Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (571) 272-1308. The examiner can normally be reached on M-F from 5:30 am to 2:00 pm and some Saturdays from approximately 5:30 am to 11:30 am.

Application/Control Number: 10/777,268

Art Unit: 1746

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached on (571) 272-1700. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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FRANKIE L. STINSON **Primary Examiner GROUP ART UNIT 1746** Page 4